

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21138

Application 30337 of

South Coast Water District
P.O. Box 30205
Laguna Niguel, CA 92607-0205

filed on **March 24, 1995**, has been approved by the State Water Resources Control Board (SWRCB)
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:

**San Juan Creek (subterranean
stream)**

Tributary to:

Pacific Ocean

within the County of **Orange**.

2. Location of point of diversion

By California Coordinate System of 1927, in Zone 6	40-acre subdivision of public land survey or projection thereof	Section (Projected) *	Township	Range	Base and Meridian
North 478,240 feet and East 1,564,500 feet	NE¼ of SE¼	14	8S	8W	SB

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
Municipal	Within the boundaries of South Coast Water District		7W, 8W	8S	SB	

The place of use is shown on map filed with the SWRCB.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 4.0 cubic feet per second to be diverted from January 1 to December 31 of each year. Until further order of the Chief, Division of Water Rights, the maximum amount diverted under this permit shall not exceed 976 acre-feet per annum (afa). This amount can be increased by a maximum of 324 afa, for a total diversion of 1,300 afa, upon showing by the permittee of the availability of unappropriated water and approval of the Chief, Division of Water Rights.

(0000005A)

6. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2012.

(0000009)

7. During the season specified in this permit, the total quantity and rate of water diverted and used under this permit and under permittee's claimed existing right for the place of use specified in the permit shall not exceed the quantity and rate of diversion and use specified in this permit. If the permittee's claimed existing right is quantified at some later date as a result of an adjudication or other legally binding proceeding, the quantity and rate of diversion and use allowed under this permit shall be the net of the face value of the permit less the amounts of water available under the existing right.

Permittee shall forfeit all rights under this permit if permittee transfers all or any part of the claimed existing right for the place of use covered by this permit to another place of use without the prior approval of the State Water Resources Control Board.

Permittee shall take and use water under the existing right claimed by permittee only in accordance with law.

(0000021B)

8. Allocation of the available water resources under this permit and Permit 21074 (Application 30123) of San Juan Basin Authority and any permit issued pursuant to Application 30696 of Capistrano Valley Water District, et al. are governed by private agreements among the respective parties dated November 21, 1995 and March 1, 1998, and by their joint letter dated March 13, 1998.

If the agreements are modified in a manner which requires revisions to the allocation of water, the permittee shall provide to the Chief of the Division of Water Rights a revised allocation schedule and the permittee shall operate to the revised schedule. If the agreements are terminated, the Chief of the Division of Water Rights shall determine the water allocation schedule needed to protect prior rights and public trust resources, and the permittee shall operate to this schedule.

(0000024)

9. To the extent that water available for use under this permit is return flow, imported water, or wastewater, this permit shall not be construed as giving any assurance that such supply will continue.

(0000025)

10. Permittee shall consult with the Division of Water Rights and, within one year from the date of this permit, shall submit to the State Water Resources Control Board its Urban Water Management Plan as prepared and adopted in conformance with section 10610, et seq. of the California Water Code, supplemented by any additional information that may be required by the Board.

All cost-effective measures identified in the Urban Water Management Plan and any supplements thereto shall be implemented in accordance with the schedule for implementation found therein.
(0000029A)

11. If it is determined after permit issuance that the as-built conditions of the project are not correctly represented by the map(s) prepared to accompany the application, permittee shall, at his expense have the subject map(s) updated or replaced with equivalent as-built map(s). Said revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section 715 and sections 717 through 723 of the California Code of Regulations, Title 23. Said revision(s) or map(s) shall be furnished upon request of the Chief, Division of Water Rights.
(0000030)
12. The permittee shall not operate the project in a manner so as to cause injury to the reasonable and beneficial uses of water recognized for San Juan Creek watershed in the Water Quality Control Plan for the San Diego Basin.
(000T001)
13. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, permittee shall file a report pursuant to Water Code Section 13260 and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, San Diego Region, or by the State Water Resources Control Board.
(0000100)
14. Cumulative extractions by the permittee, senior right holders, and rights governed by private agreements with the permittee (see condition 8) shall not exceed recharge from return flows and precipitation. This condition is satisfied when groundwater storage is not less than one-half of the storage capacity in the alluvial groundwater basin.
(0360900)
15. Permittee shall promptly install and maintain metering devices on the diversion facility it uses, in a manner consistent with current waterworks industry standards. Permittee shall meter flows at the diversion facility monthly. Permittee shall measure static water levels at the diversion facility once every two months. This information shall be submitted to the Division of Water Rights annually, with the Progress Report by Permittee forms.
(0080900)
(0490900)
16. Prior to diversion of water under this permit, permittee shall prepare and submit to the Chief, Division of Water Rights for approval and modification, if necessary, an annual compliance monitoring plan. Any amendments to the plan shall also be submitted to the Division Chief for approval and modification, if necessary, prior to implementation.

The monitoring plan shall identify (a) the measures the permittee will take to collect data regarding water levels in the San Juan Basin (b) document how the permittee will comply with the requirement that cumulative extractions do not exceed recharge from return flows and precipitation, and (c) provide adequate information to document that the permittee will not operate the project in a manner that causes adverse impacts to senior water rights and water rights governed by private agreement (identified in condition 8), and their successors in interest.

The permittee shall identify the steps that will be taken to limit diversions to ensure that (a) diversions do not interfere with prior rights, (b) cumulative diversions do not exceed basin recharge rates, and (c) diversions comply with all permit terms and conditions. Upon approval of the plan by the Chief, Division of Water Rights, the permittee shall implement the plan.

An annual compliance report shall be submitted with the Progress Report by Permittee.
(0490700)

17. Prior to initiating any diversion of water under this permit, the permittee shall install monitoring well(s) located in the vicinity of the point of diversion for the purpose of monitoring both total dissolved solids (TDS) and chloride levels. The permittee shall obtain measurements of the TDS and chloride levels at the monitoring well(s) and shall develop a monitoring program that identifies the sampling frequency, monitoring protocol, and statistical analysis needed to document TDS and chloride levels relative to the water quality objectives in the Water Quality Control Plan for the San Diego Basin (Basin Plan). The water quality monitoring program shall be submitted to the Chief, Division of Water Rights for approval and modification, if necessary, within six months of issuance of this permit. No water may be diverted until the monitoring program is approved.

Extractions shall not cause groundwater to exceed the Basin Plan objectives. In the event the Basin Plan objectives are already exceeded, the extraction shall not cause further degradation. Because the levels of TDS and chloride may vary with time, the constituent levels in the monitoring wells shall be statistically compared with historic levels or monitoring wells unaffected by the extractions to determine if degradation has occurred.

A record of the TDS and chloride level measurements taken in accordance with the water quality monitoring program requirements shall be submitted annually with the Progress Report by Permittee, together with documentation that the permittee discontinued use of the diversion well whenever the well did not meet the requirements of this permit condition. The permittee shall provide the dates of non-use whenever the diversion well is not in use due to this permit condition.

(0110900)
(0360900)
(0490700)

18. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the Permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Chief of the Division of Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Chief of the Division of Water Rights.

(0000215)

19. No debris, soil, silt, cement that has not set, oil, or other such foreign substance will be allowed to enter into or be placed where it may be washed by rainfall runoff into the waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area.

(0000208)

20. Within 120 days of permit issuance, the permittee shall submit documentation to the Chief, Division of Water Rights whether any construction activities pursuant to this permit may affect the Designated California Natural Area, site number ORA 24 (natural area).

Prior to initiating any construction activities that may affect the natural area, the permittee shall obtain written approval authorizing work in the natural area from the California Department of Fish and Game (DFG). The permittee shall submit a copy of any DFG authorization to the Chief, Division of Water Rights within 60 days of receiving the DFG approval.

(0400500)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants.
(0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.
(0000010)
- C. Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.
(0000011)
- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.
- (0000013)
- F. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.
- (0000014)
- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.
- (0000015)
- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.
- (0000063)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district,

lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD

Naird R. Bevington
for Harry M. Schueller
Chief Deputy Director

Dated: **DEC 19 2002**